IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1727 OF 2007

Dhanraj R. Mahale & Ors... .....
Petitioners
V/s
Kirloskar Oil Engines Ltd. & Anr... .....
Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.) Court's or Judge's Orders

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Mr.Bhavesh Parmar, Adv. for the petitioners.

Mr.C.U.Singh with Mrs.Sania Deshpande, Adv. For the respondents.

CORAM: A.P. DESHPANDE, J.
21.4.2007

PC:

The present petitioners were initially appointed in the respondents-company firstly as trainees thereafter as temporary employees and lastly as probationers. The last appointment order clearly stipulates the period of appointment to be six months on probation. The petitioners were

discontinued from service on efflux of time prescribed in the appointment order. Aggrieved thereby petitioners approached the Labour Court by making ULP complaint under item 1(a), (b), (d) and (f) of Schedule IV contending that the respondent has indulged in unfair labour practice. The Labour Court allowed the complaint filed by the petitioners and aggrieved thereby respondents filed revision before the Industrial Court. The Industrial Court allowed the revision filed by respondents and quashed and set aside the judgment and order passed by the Labour Court. Dissatisfied by the judgment and order passed in revision by the Industrial Court the petitioners have approached this Court by filing present writ petition.

2. The learned counsel for the petitioners placed reliance on clause 4A of schedule I of the Model Standing Orders and contended that every probationer on completion of three

months uninterrupted service in the post in which he is provisionally employed shall be made permanent in that post is a mandate of the said provision. He submits that as the petitioners had completed three months of probation they were entitled to be continued in regular service and could not have been discontinued. Per contra, learned senior counsel Shri Singh has submitted that Rule 32 of the Bombay Industrial Employment (Standing Orders) Rules, 1952 lays down that standing orders are to apply in the absence of contract to the contrary and points out that the appointment order itself provides the period of appointment on probational to be six months. Thus in view of rule 32 the provisions of Schedule 1 clause 4A stand excluded. There is no merit in the submission made by the learned counsel for the petitioners. Hence petition is summarily dismissed.

21.4.07.